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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,939	06/20/2003	Jeffrey P. Whittemore	ZIP-0007	9441

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Mills & Onello, LLP
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Boston, MA 02108

EXAMINER

CHAN, KO HUNG

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/600,939

Applicant(s)

WHITTEMORE ET AL.

Examiner

Korie H. Chan

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[Handwritten signature]

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-66 is/are pending in the application.
- 4a) Of the above claim(s) 12, 13, 21, 40 and 44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 14-20, 22-39, 41-43 and 45-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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After further consideration, the previously indicated allowable subject matter is hereby withdrawn in view of the following Office Action.

Claims 12, 13, 21, 40, 44 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/24/2004.

Claim Objections

Claims 29, 30, 42, and 66 are objected to because of the following informalities: Claims 29 and 66 have the same exact recitation and both dependent on claim 28. It appears claim 66 should have been dependent from claim 65. Similarly, 30 and 42 have the exact same recitation and both dependent from claim 25. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 18, 29, 54, and 66 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use

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the invention. Claims 18, 29, 54, and 66 each recites that the second arm has a hinge that allows the head interface (51) and grip handle (38) to be positioned relative to each other at a range of angles; however, the head interface and grip handle (38) are disposed at first and second ends of the L-shaped second arm with no hinge between the ends which would allow the ends to vary their angles relative to one another. The ends of the L-shaped second arm is fixed relative to one another. The only hinge perhaps, on the second arm is for the handle 72 for head clamp (40) and such hinge does not allow the ends of the L-shaped arm where the head interface and grip handle (38) are respectively located to vary their angle.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-11, 20, 34-39, 41, 43, 46-50, 57-62, and 64 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 6-11, it is not clear whether applicant is claiming the combination of the partition mount with the head for the reason that the preceding claim 5 from which claims 6-11 depends sets forth an intended use "for coupling to a head" while claims 6-11 recites specific structures of the head. Such makes claims 6-11 vague and indefinite. Similar problem exists for claims 34-39, 41, 46-50, and 57-62.

Examiner does not treat claims 6-11, 34-39, 41, 46-50, 57-62 as a combination of partition mount and head as the claim from which these claim depend indicates an

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intended use. Consequently, the structures to the head as recited in claims 6-11, 34-39, 41, 46-50, 57-62 have been treated as an intended use and have not been accorded patentable weight.

Regarding claim 20, which depends from claims 1 and 19, recites that the spring biasing unit can be one of outwardly biased and inwardly biased. However, such recitation is vague and indefinite in light of the recitation of claim 1 which already defines the biasing unit as outwardly biasing (line 6, claim 1). Similarly problem exists for claims 43 and 64.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

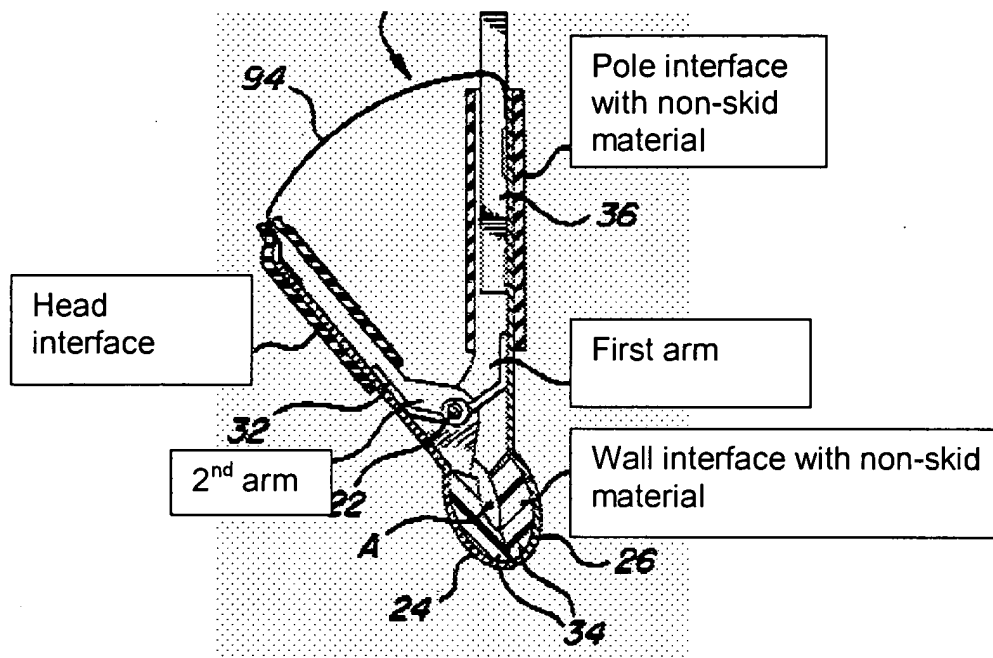
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4, 14, 19, 20, 22, 23, 25, 30, 32, 42, 43, 55, 56, 63, and 64 are rejected under 35 U.S.C. 102(b) as being anticipated by Bartys (US patent no. 5,832,652). Bartys discloses a mounting assembly for mounting between a pole (12) and an abutting surface (the surface onto which 34 is connected) having the features as

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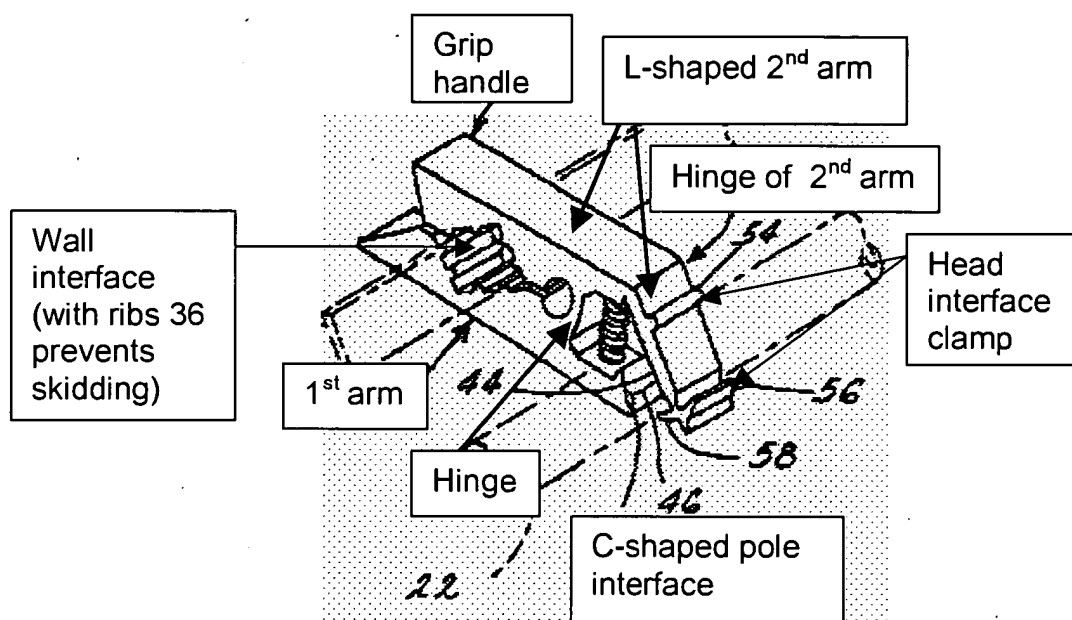
claimed (see illustration below). Bartys' spring (22) outwardly biases the pole interface (30) and head interface with respect to each other such that the relative positions of the pole interface and the head interface can be varied.



Claims 1-3, 5-11, 14, 17-20, 22-25, 28-31, 33-39, 41-43, 45-50, 53-64, and 66 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker (US patent no. 5,715,620). Walker discloses a mounting assembly for mounting between a pole (22) and an abutting surface (14) having the features as claimed (see illustration below) and made of plastic material (Col. 3, line 1). Walker's spring (40) outwardly biases the pole interface (see below) and head interface with respect to each other such that the relative positions of the pole interface and the head interface can be varied; and wherein the head interface is integral with the mount body. Again, applicant's intended

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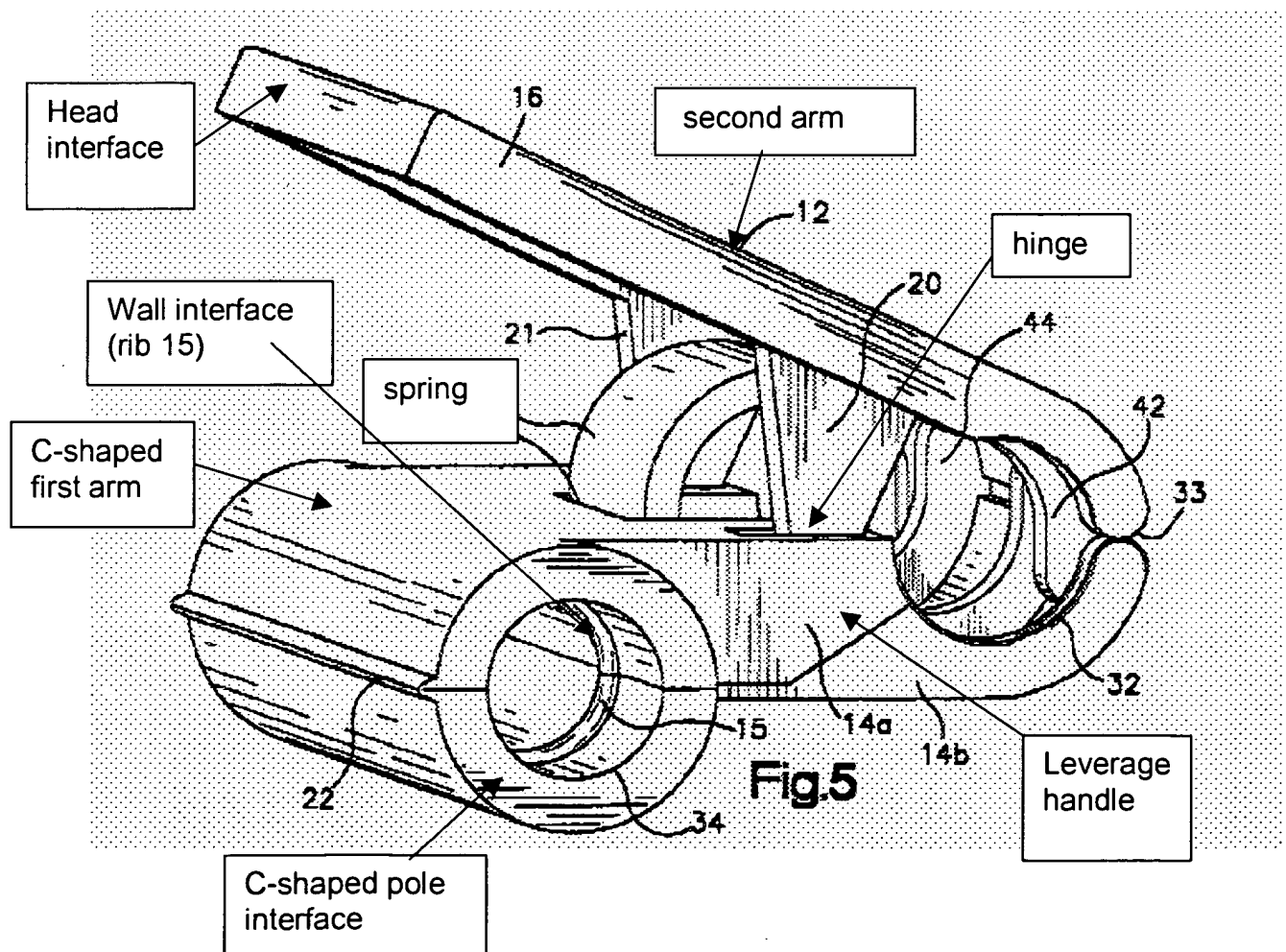
usage "for a head with a pad where the pad is non-skid, compressible, and etc..." are not accorded with patentable weight.



Claims 1-4, 14-16, 19, 20, 22, 24-27, 30-32, 42, 43, 45, 51, 52, 55, 63, and 64 are rejected under 35 U.S.C. 102(e) as being anticipated by Lassiter (US patent no. 6,523,231). Lassiter discloses a mount assembly comprising a pole interface (see

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below illustration) coupled to a mount body via hinge (22), the pole interface capable of interfacing with a side portion of a pole; a head interface (see illustration below) coupled to the mount body; a biasing unit (18) for outwardly biasing the pole interface and head interface with respect to each other such that their relative positions can be varied; wherein the pole interface is at a first end of the mount body and wherein the head interface is at a second end of the mount body; the pole interface comprises a C-shaped body; wherein the pole interface comprises a non-skid material (Lassiter's material such as at rib or teeth 15 prevents movement within the sleeve column 3, lines 34-40); wherein the biasing unit is a spring outwardly biased; wherein the mount body is made of plastic.



Claims 1-4, 14-16, 19, 20, 22, 24-27, 30-32, 42, 43, 45, 51, 52, 55, 63, and 64 are rejected under 35 U.S.C. 102(b) as being anticipated by Pencek (US patent no. 2,487,585). Pencek discloses a mount assembly comprising a first C-shaped arm (5) with a pole interface (cylindrical portion of 5 where screw below 7 engages) at one end and a leverage handle at the other end and a wall interface (7) on the first arm, a second L-shaped arm (13) coupled to first arm (5) by a hinge (10) wherein the second arm has a head interface with a clamp (16) at one end and a grip handle (the vertical second end of the arm 13 for gripping the arm within the sleeve hinge 10) at the other end; a biasing unit (15) for outwardly biasing the pole interface and head interface with respect to each other such that their relative positions can be varied.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16, 23, 24, 27, 45, 52, 56, and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pencek (US patent no. 2,487,585) in view of Stammers (US

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patent no. 5,918,843). Pencek disclosed all the claimed features of applicant's invention except for the wall interface as being of non-skid material. Stammers teaches a mount body (figure 2) having a wall interface (12) of non-skid material such as rubber (Col. 3, lines 38-40) to increase friction with a surface and wherein the mount body can be made of strong metal. It would have been obvious to one of ordinary skill in the art to have modified the wall interface of Pencek such that it includes a non-skid material to increase friction with a surface as taught to be desirable by Stammers. Further, regarding claims 24, and 45, it would have been an obvious matter of design choice to make the mount body of plastic, graphite, wood, or aluminum alloy.

Applicant's arguments with respect to claims 1-11, 14-20, 22-39, 41-43, 45-66 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 703-305-8079. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Korie H. Chan
Primary Examiner
Art Unit 3632

khc
April 8, 2004